



## **MID-WEST TRUCKERS ASSOCIATION**

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# DISCUSSION TOPICS

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- Reasonable Suspicion
- CDL Drug and Alcohol Clearing House
- Random Rates and Positive Test
- Marijuana Breath Device
- Legalizing Marijuana in Illinois
- Excuses for Positive Drug TEST
- Invalid Rest Results
- CBD OILS

# **REASONABLE SUSPICION**

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- All Company Personnel designated to supervise DOT regulated employees must go through the Reasonable Suspicion Supervisor Training.
- Dr. Donna Smith presents a Webinar and also does a presentation at our convention.
- Dr. Smith is the principal Authority and architect of the Federal Drug and Alcohol Testing Regulations for the U.S. Department of Transportation.
- She continues to provide training all over the U.S. and brings her expertise to share with the participants in the Training.

# REASONABLE SUSPICION

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- The PHMSA regulations require you to test a covered employee if a trained supervisor has reasonable suspicion that the driver has used a controlled substance or has misused alcohol as defined in the regulations (§§199.105 & 199.225).
- Reasonable suspicion testing is designed to provide you with a tool to identify affected covered employees who, through alcohol or controlled substances misuse, may pose a danger to themselves and others in their performance of safety-sensitive functions.
- Covered employees may be at work in a condition that raises concern regarding their safety or productivity. A supervisor must then make a decision as to whether reasonable suspicion exists that a controlled substance and/or alcohol may be causing the behavior.

# REASONABLE SUSPICION SUPERVISOR TRAINING

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## 1<sup>st</sup> Scenario

An employee was cleaning out a truck Friday afternoon and found a marijuana pipe under the driver's seat. The driver immediately gave it to his supervisor. Several drivers had driven the truck since the last time it had been cleaned out. The driver who had been the last to drive the truck had gone home for the weekend and wouldn't be back until Monday morning. The employer called to schedule a reasonable suspicion drug test on the driver first thing Monday morning.

# REASONABLE SUSPICION SUPERVISOR TRAINING

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## ► 2<sup>nd</sup> Scenario:

The employee has worked for the employer for several years and has never been late and has been rarely sick until recently. He has missed a day a week for several weeks and has been late several times. Today he was sleeping on the job. The trained supervisor approached the driver and saw he had bloodshot eyes and was off balance when he walked. The supervisor spoke to employee privately with his documentation of how many times the employee had been late or missed work and now, sleeping. The supervisor asked the employee to give him an explanation but the employee could not provide any legitimate excuse. The supervisor explained the reasonable suspicion regulations to the employee and ordered a drug R/S test.

# REASONABLE SUSPICION SUPERVISOR TRAINING

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## ▶ 3rd Scenario:

An employee went to jail over the weekend and bailed himself out the same weekend. The employer read the newspaper Monday morning and saw his employee had been arrested for possession of marijuana and paraphernalia. The employer immediately called for a reasonable suspicion drug test to be done as soon as the employee arrived for work that morning.

# REASONABLE SUSPICION VIDEO

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# DRUG & ALCOHOL CLEARINGHOUSE

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- Main Objective- For Employer to determine if a driver has had a previous Drug or Alcohol Violation.
- This makes them ineligible to operate a commercial motor vehicle until he or she has complied with the RTD (Return to Duty Process)- Tested negative on a RTD
- Social Security Numbers will not be allowed in clearinghouse ( Mid-West Truckers will use for internal use)
- They will use CDL Numbers (Drivers License)

# CONTINUED

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- Drivers, Employers, Medical Review Officers, Substance Abuse Professionals, and Consortiums/Third party administrators will be required to register on the Clearinghouse.
- The Employer must do a full query / partial query on the driver in the clearinghouse before he or she puts the driver on the road. ( Mid-West Truckers will be able to conduct the queries for our Consortium members)
- State's driver license facilities will have to query the clearinghouse before transferring CDL licenses.
- **PHMSA- currently does not fall under this but soon could be.**

# RANDOM RATES

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- **Federal Transit Administration** raised their Random Drug Testing rate back to 50% for 2019.
- **Pipeline and Hazardous Material Safety Administration** raised their random testing rate to 50 % in 2018
- **Federal Motor Carrier Administration** – 25% Drug Tests for 2019
- **540,000 Carriers- 9 Million Drivers-** They go through the numbers on the Management Information Systems Report to determine percentages.

# POSITIVE TEST

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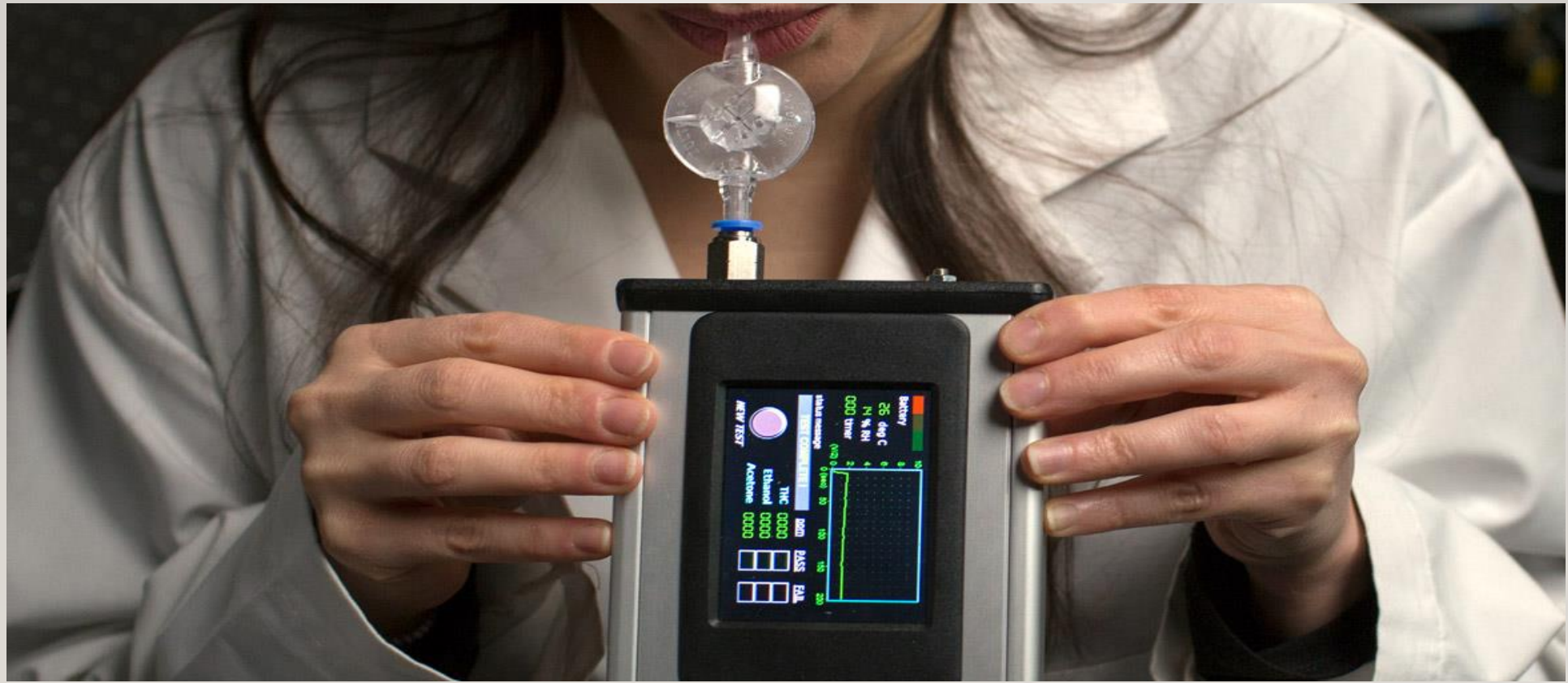
# **POSITIVE TESTS RISING**

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- Many Positive Opioid Drug Test Results because of the addition of expanded Opioids.
- Increase in Cocaine
- Increase in Methamphetamine
- ODAPC- The Office of Drug & Alcohol Policy & Compliance stated that 47 states plus Washington D.C. have passed some sort of Marijuana laws.
- Because of that, Marijuana Positives have been increasing.

# MARIJUANA BREATH DEVICE

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# INFO

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- California Company has created the First Marijuana Breath Analysis Test.
- Could have potential to be used by police to detect whether drivers have used the drug.
- Law enforcement officers have grown increasingly concerned about people driving while Impaired.
- Police officers have not had any roadside means to determine whether a driver has been impaired by marijuana.
- They have depended mostly on field sobriety tests developed to catch alcohol use or through personal observation
- ODAPC said impairment for marijuana will not be set for a long time for DOT- covered employees but did not elaborate why.

# **LEGALIZING MARIJUANA IN ILLINOIS**

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- Illinois has become the 11th state to permit the use of recreational cannabis.
- Colorado legalized recreational marijuana in 2013.
- Marijuana- related traffic deaths ( when a driver tests positive for marijuana) has more than doubled ( 66%) increase. During the same period, all traffic deaths increased 16%.
- In the first 5 areas that legalized recreational marijuana (Colorado, Washington, Oregon, Alaska, the District of Columbia) it is now the leading cause for drug treatment among youth (12-17).
- Marijuana-related hospitalizations have increased 72% from the time of legalization

# CONTINUED

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- Nothing in this Act shall be construed to interfere with any federal, state, or local restrictions on employment including, but not limited to, the United States Department of Transportation regulation 49 CFR 40.151 (e) or impact an employer's ability to comply with federal or state law or cause it to lose a federal or state contract or funding.
- The Act also permits employers to adopt and enforce “reasonable” and nondiscriminatory zero tolerance and drug free workplace policies for non-DOT regulated workers.

# CONTINUED

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- Property Crime increased by 8.3% and violent crime increased 18.6% since legalization
- 2013 Illinois General Assembly legalized medical marijuana.
- Both the Illinois Sheriffs Association and the Illinois Association Chiefs of Police are strongly opposed to legalizing high potency marijuana for Recreational use.
- **What's all this Mean-** If you are regulated under FMCSA, FTA, PHMSA, FRA, FAA, or US Coast Guard, you **Cannot** have any THC in your system (PERIOD)

# DRUG-FREE WORKPLACE

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- Illinois Right to Privacy in the Workplace ACT- this prohibits employers from restricting such employees from using legal products outside of work. (Creates a Curveball for employers).
- Specifically, the Right to Privacy Act is being amended to provide that “lawful products” means products that are legal under state law, indicating that recreational and medical marijuana are legal products that must be treated like alcohol and tobacco.
- This Act changes the emphasis from whether an employee “used” marijuana while employer, to whether the employee was “impaired” or “under the influence” of marijuana while at work or working.

# DRUG- FREE WORKPLACE

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- Issues- refusing to hire, disciplining, terminating, refusing to return a non – DOT employee to work or taking an adverse action against such an employee or applicant.
- Applicants who Fail: pre-employments, random, or post-leave return to duty tests for marijuana will arguably create a claim for the employee against an employer for a violation of Illinois Law.
- While legislative intent may not agree with such restrictions on the workplace, that likely won't stop workers from trying to advance legal disputes against employers.

# EXCUSES FOR POSITIVE DRUG TESTS

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- - Have you searched online for “How to Pass a Drug Test”?
- **Popular recommendations include:** diluting a urine sample, drinking cocktails containing vinegar and cranberry juice, taking creatine and metabolism-boosting supplements, or sneaking synthetic urine into the restroom as a substitute for the sample-one of today's more popular methods.
- **Excuses:**
- I ate a lot of poppy seed muffins for breakfast
- I was around someone that was smoking marijuana. (Second Hand HIGH)

# CONTINUED

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- My mom has a valid prescription for that drug.
- The required time window didn't work for me... I needed a few more days to get clean
- I don't know how that bottle of urine got in my purse
- There must have been a mix-up with the specimens
- I attended a party over the weekend; someone must have put something in my drink
- Trained, professional collectors are a key component of the drug testing process. They know what to look for and can help ensure that donors adhere to collections protocols which are designed to stop cheating.

# **INVALID TEST RESULTS**

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- What does Invalid Result Mean?
  - Has a non-identifiable substance at an abnormal concentration that prevents the lab from completing testing or obtaining a valid drug test
  - The Medical Review Officer calls and discusses with the donor for a possible medical explanation before releasing it to us.

# CBD (CANNABIDIOL)

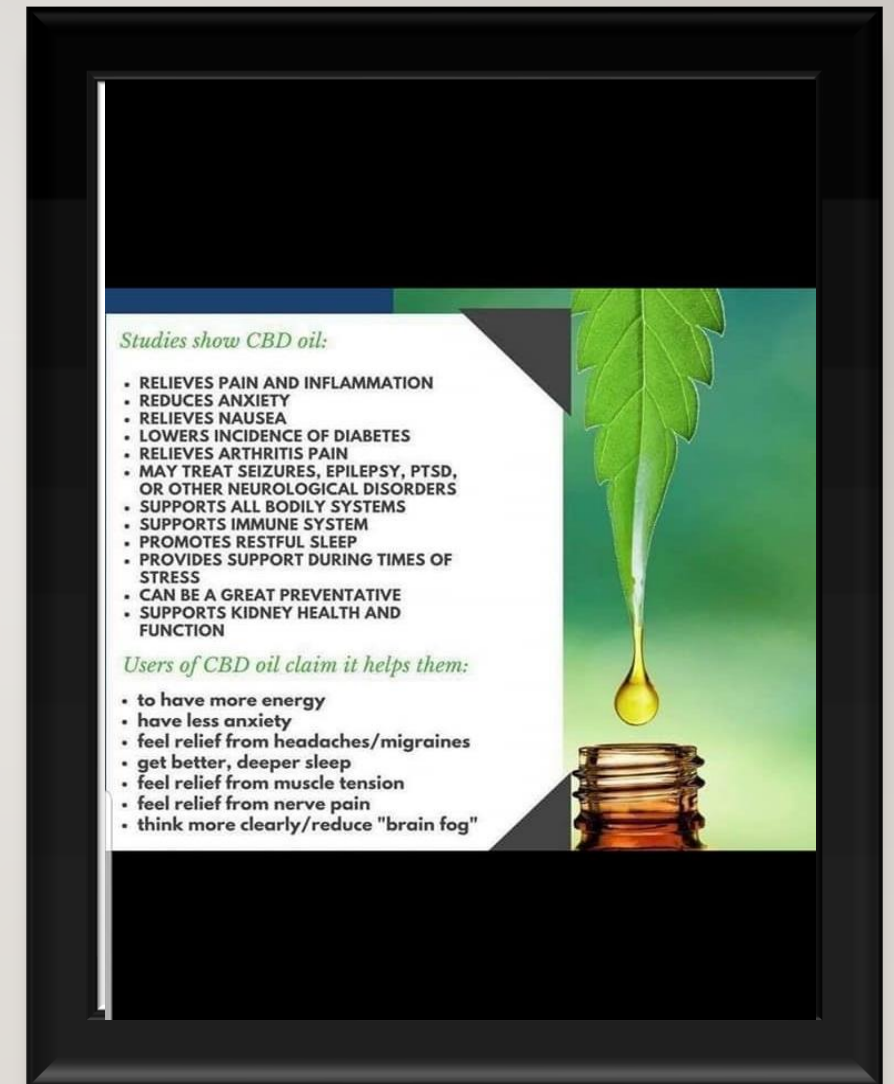
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- IT IS SOLD EVERYWHERE!!!!!!!
- CBD oil is supposed to have the THC processed out of it. (NOT ALWAYS THE CASE)
- CBD- Cannabidiol is a chemical in the cannabis sativa plant, also known as Marijuana.
- Over 80 Chemicals known as Cannabinoids have been Identified in the Cannabis Sativa Plant.
- CBD is extracted from a Cannabis or Hemp Plant.
- USED IN- OILS, Dietary Supplement, Creams, Edible Gummies, ETC...

# CBD USER CLAIM:

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- To have more energy
- Have less anxiety
- Feel relief from headaches/ migraines
- Get better, deeper sleep
- Think more clearly / reduce “BRAIN FOG”



# DO YOU HAVE ANY OF THE SYMPTOMS BELOW?

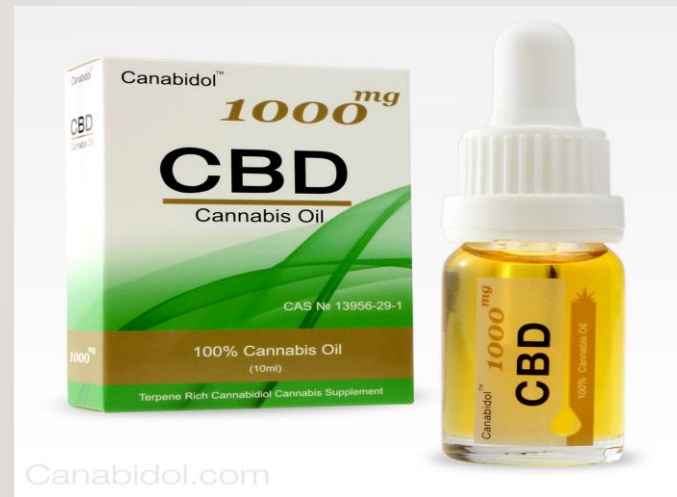
CBD oil has been shown to help with:

- |             |                |                  |
|-------------|----------------|------------------|
| ACNE        | DIABETES       | MOOD DISORDERS   |
| ADD/ADHD    | ENDOCRINE      | MS               |
| ALS         | EPILEPSY       | NAUSEA           |
| ALZHEIMER'S | FIBROMYALGIA   | NEUROPATHIC PAIN |
| ANALGESIC   | GI DISORDERS   | PARKINSON'S      |
| ANXIETY     | GLAUCOMA       | PTSD/PTS         |
| ARTHRITIS   | HEART DISEASE  | ECZEMA           |
| ASTHMA      | HUNTINGTON'S   | PSORIASIS        |
| AUTISM      | HIV/AIDS       | SHINGLES         |
| CANCER      | INFLAMMATION   | SLEEP ISSUES     |
| CHEMO       | IBS            | STRESS           |
| CROHN'S     | KIDNEY DISEASE | STROKE/TBI       |
| DEMENTIA    | LIVER DISEASE  | TOURETTE         |
| DEPRESSION  | MIGRAINES      | SYNDROME         |

Pure, all-natural CBD oil is now legal in all 50 states and in over 200 countries!

# EXAMPLES

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# CBD

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- Chiropractors are giving this as an alternative to other lotions (ICY HOT, BENGAY, TIGERBALM, ASPERCREME, ETC).
- Massage Therapists are utilizing CBD OILS
- People on Facebook are selling CBD OILS just like AVON MAKEUP, TUPPERWARE, AMAZON DEALERS, ETC.

# FACEBOOK DEALERS

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- Do you have questions about CBD OIL?
- IS it legal? Is it safe? Do I get High? What is it used for?
- One Person Writes: I have done my research and I have been using CBD for 3 months now to relieve inflammation in my knee that has bothered me for over a year. No more pills, no more acupuncture just CBD OIL.
- Have you wanted to try or you know someone who might benefit? The CBD list of treating symptoms is long!!
- Let me know if I can point you in the right direction and sell you this product. (Facebook)

# DRUG TESTING FOR CBD PRODUCTS

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- Is it true that using them cannot cause a positive THC marijuana test?
- Answer: NO ONE KNOWS
- Depends on how much THC was in the Product
- How it was Consumed.
- When it was used, ETC.
- There is no test that can determine if the THC found in a person's urine, hair, or saliva came from Marijuana, hemp, or CBD Oils.

# ARTICLE

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- TRANSPORT TOPICS
- Fired Truck Driver Sues Cannabidiol Company After Using Product
- Written By: Eric Miller
- <https://www.ttnews.com/articles/fired-truck-driver-sues-cannabidiol-company-after-using-product>

# MARIJUANA IN ILLINOIS

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•NO

# QUESTIONS

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